

## Income/Franchise:

### **Pennsylvania: Taxpayer Asks US Supreme Court if Philadelphia Validly Denied Wage Tax Credit for Taxes Paid to Other State**

*Docket No. 23-\_\_\_\_*, *US* (petition for cert. filed 2/20/24). In a case involving a resident of the City of Philadelphia, Pennsylvania (City) who worked full-time in the City of Wilmington, Delaware and unsuccessfully claimed an additional credit against her City of Philadelphia wage taxes for a portion of income taxes that she paid to the State of Delaware, the resident has petitioned the US Supreme Court (Court) to consider how states credit taxpayers' out-of-state tax liabilities under the Commerce Clause. In the underlying case, the Pennsylvania Supreme Court recently affirmed denial of the resident's claim for an additional City wage tax credit for a portion of the Delaware state taxes incurred [see Case Nos. 20 EAP 2022 and 21 EAP 2022, Pa. (11/22/23) and *State Tax Matters*, Issue 2023-47, for details on the Pennsylvania Supreme Court's 2023 decision] – concluding that state and local taxes need not be aggregated in conducting a dormant Commerce Clause analysis, and that, ultimately, the City's wage tax scheme does *not* discriminate against interstate commerce. In the resident's filed petition, she asks the Court whether the Commerce Clause requires states to consider a taxpayer's burden in light of the state tax scheme as a whole when crediting a taxpayer's out-of-state tax liability "as the West Virginia and Colorado Supreme Courts have held and this Court has suggested," or whether it permits states to credit out-of-state state and local tax liabilities as "discrete tax burdens" as held by the Pennsylvania Supreme Court in this case. Please contact us with any questions.

**URL:** <https://www.pacourts.us/assets/opinions/Supreme/out/J-5B-2023mo%20-%20105746608246962463.pdf>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231201\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231201_5.html)

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